



December 7, 2018

Repp Law Firm
1629 K Street, N.W., Suite 300
Washington, D.C. 20006-1631
T 202.656.1619
F 202.400.3737
marissa@repplawfirm.com
www.repplawfirm.com

Via e-mail: auction100@fcc.gov

Albert Shuldiner, Esq.
Chief, Audio Division, Media Bureau

Margaret W. Wiener, Esq.
Chief, Auctions & Spectrum Access Division
Wireless Telecommunications Bureau

Federal Communications Commission
445 Twelfth Street, SW
Washington, DC 20554

**Re: Auction 100
Request for Waiver of 47 C.F.R. Section 1.2105(c)
Indirect Subsidiaries of iHeartMedia, Inc., as debtor in possession**

Dear Mr. Shuldiner and Ms. Wiener:

This waiver request is being submitted on behalf of three indirect subsidiaries (the “iHeart Applicants”)¹ of iHeartMedia, Inc., as debtor in possession, with pending engineering proposals (“Short Form”) applications filed in the January 2018 cross-service Auction 100 FM Translator filing window (the “Auction 100 Short Form Window”).² The iHeart Applicants are listed as currently holding pending Short Form applications in five mutually exclusive Auction 100 groups.³ Specifically, the iHeart Applicants, which are under common control,

¹ The iHeart Applicants are identified on Appendix A hereto.

² See Public Notice, *Filing Instructions for Second Cross-Service FM Translator Auction Filing Window for AM Broadcasters (Auction 100) to be Open January 25-January 31, 2018; Freeze on FM Translator and Low-Power FM Station Minor Change Applications and FM Booster Applications January 18- January 31, 2018*, 32 FCC Rcd 10173 (MB/WTB 2017) (“Auction 100 Filing Instructions Public Notice”).

³ See Public Notice, *Auction of Cross-Service FM Translator Construction Permits, Comment Sought on Competitive Bidding Procedures for Auction 100*, DA 19-1038, Public

hereby request a waiver of section 1.2105(c) of the Commission's Rules⁴ to allow the iHeart Applicants participating in Auction 100 competitive bidding to engage in communications among themselves, including communications involving the substance of the iHeart Applicants' bids or bidding strategies in Auction 100.

Each of the three iHeart Applicants are indirect subsidiaries of, and under the common control of, iHeartMedia, Inc. Such common control is documented in the broadcast station ownership reports currently on file with the Commission for the iHeart Applicants.⁵ Moreover, as set forth in the Form 316 applications by which the Commission approved the Chapter 11 debtor in possession status of the iHeart Applicants, the ownership structure of iHeartMedia, Inc, its officers and directors, as well as those of each of its license subsidiaries, were unchanged due to the filing of the Chapter 11 bankruptcy petitions.⁶

For the Auction 100 filing window, applications for new FM translator construction permits were required to be filed by the licensee or permittee of the primary AM station proposed to rebroadcast by the new FM translator.⁷ Consequently, for a parent company such as iHeartMedia, Inc., which holds common control over AM stations licensed to various entities, it was not unforeseeable that more than one iHeartMedia subsidiary licensee entity would file in the Auction 100 window and eventually be listed in different mutually exclusive

Notice at Attachment A (MB/WTB Oct. 19, 2018) ("*Auction 100 October 2018 Public Notice*") (copy of Attachment A at Appendix B hereto).

⁴ 47 C.F.R. § 1.2105(c).

⁵ See Commercial Broadcast Stations Biennial Ownership Reports (FCC Form 323) submitted on February 2, 2018, for: (i) Capstar TX, LLC, File No. 0000041209; (ii) CC Licenses, LLC, File No. 0000041219; and (iii) Citicasters Licenses, Inc., File No. 0000041225. The first page of the Organizational Chart filed with these February 2, 2018 Biennial Ownership Reports, which shows the common ownership of the iHeart Applicants under iHeartMedia, Inc., is attached at Appendix C hereto.

⁶ See Exhibit 12 to Form 316 applications for: (i) Capstar TX, LLC to Capstar TX, LLC, as debtor in possession, Lead File No. BALH-20180319AGO; (ii) CC Licenses, LLC to CC Licenses, LLC, as debtor in possession, Lead File No. BALH-20180319BAR; and (iii) Citicasters Licenses, Inc. to Citicasters Licenses, Inc., as debtor in possession, Lead File No. BALH - 20180319ASU. As the change in each iHeart Applicant to debtor in possession status was a minor change processed on a "short form" Form 316, such a minor change is permissible for the iHeart Applicants' Short Forms pending in Auction 100. Consequently, it is noted that at this time, each iHeart Applicant is in debtor in possession status, and the Commission's records in Auction 100 should be updated accordingly.

⁷ See *Auction 100 Filing Instructions Public Notice* at ¶5 (eligibility for Auction 100 filing window limited to the AM station licensee or permittee desiring a new cross-service FM translator to re-transmit its station signal full time).

Auction 100 groups. As noted above, three such commonly-controlled iHeartMedia subsidiary licensees – the iHeart Applicants – are currently listed in five Auction 100 mutually exclusive groups.

Given the eligibility restriction for participation in Auction 100 to the entity holding the license or permit of the proposed primary AM station, the Commission anticipated that certain of its auction rules could be a hinderance and not achieve the Commission’s original objectives for such a rule. Specifically, the Media and Wireless Telecommunications Bureaus previously announced that section 1.2105(a)(3)’s prohibition on the filing of more than one auction application by entities with any of the same controlling interests would be waived for Auction 100 applicants in recognition of the specific eligibility provisions and filing procedures established by the Commission for the Auction 100 cross-service FM translator filing window.⁸

In its *Auction 100 October 2018 Public Notice*, the Media and Wireless Telecommunications Bureaus acknowledged that for distinct Auction 100 applicants under common control taking advantage of the waiver of section 1.2105(a)(3), such applicants could run afoul of section 1.2105(c) if not waived or modified in particular circumstances.⁹ The Bureaus explained: “[f]or instance, in the absence of relief, such applicants could be at risk of violating section 1.2105(c) because the Commission presumes that bidding strategies are communicated between entities that share a common officer or director.”¹⁰

The Bureaus faced a similar situation in regards to Auction 99, which also limited applicants for new FM translator construction permits to the licensee or permittee entity of the primary AM station proposed to be rebroadcast.¹¹ In *John C. Trent, Esq.*, the Media and Wireless Telecommunications Bureaus granted a waiver of section 1.2105(c) to two commonly-owned applicants for new cross-service FM translator stations filed in Auction 99.¹² The Bureaus held:

We grant a limited waiver of section 1.2105(c) to JJB and Macon to provide an exception from the prohibition of communications imposed by the rule to allow these applicants to participate in Auction 99 through separate auction applications, subject to meeting all other terms and

⁸ See *Auction 100 October 2018 Public Notice* at ¶ 10.

⁹ See *id.* at ¶¶ 12-13.

¹⁰ See *id.* at ¶ 12.

¹¹ See Public Notice, *Filing Instructions for Cross-Service FM Translator Auction Filing Window for AM Broadcasters to be Open July 26 - August 2, 2017 Freeze on FM Translator and Low-Power FM Station Minor Change Applications and FM Booster Applications July 19 - August 2, 2017*, 32 FCC Rcd. 4663 at ¶ 5.

¹² See *John C. Trent, Esq.*, DA 18-447 (MB/WTB rel. May 1, 2018).

requirements for participation in this auction. Grant of such waiver is consistent with the Bureaus' prior recognition of the unique circumstances of the Auction 99 filing window, including the specific eligibility requirements adopted by the Commission in the AM Revitalization proceeding. Moreover, waiving section 1.2105(c)'s prohibition to the limited extent so that JJB and Macon may participate in Auction 99 while necessarily sharing bidding information by virtue of having the same ownership and control will give effect to that prior waiver. As outlined in the *Auction 99 Comment Public Notice*, we believe that in this regard the circumstances of Auction 99 are analogous to those of Auction 1001, the reverse auction portion of the broadcast spectrum incentive auction, where the Commission by rule provided an exception to the prohibition on certain communications with respect to communications between commonly owned applicants.¹³

The iHeart Applicants respectfully submit that the same factors warranting a waiver of section 1.2105(c)'s prohibition on communications for the commonly-owned applicants in Auction 99 also are present here for the iHeart Applicants in mutually exclusive groups in Auction 100. Consequently, it is requested that the Bureaus grant a similar limited waiver of section 1.2105(c) to provide an exception from the prohibition of communications imposed by the rule to allow the iHeart Applicants to participate in Auction 100 through separate auction applications, subject to meeting all other terms and requirements for participation in Auction 100. Grant of such a waiver would be consistent with the Bureaus' prior recognition of the unique circumstances of the eligibility requirements of Auction 100, as was the case for Auction 99.

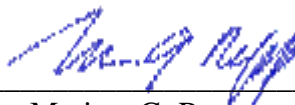
13

Id.

Albert Shuldiner, Esq.
Margaret W. Wiener, Esq.
Federal Communications Commission
Page 5

Respectfully submitted,

REPP LAW FIRM

By: 
Marissa G. Repp

Attorney for Capstar TX, LLC,
CC Licenses, LLC, and Citicasters Licenses,
Inc., each as debtor in possession

cc: Lisa Scanlan, Audio Division, Media Bureau (via e-mail)
Lynne Milne, Wireless Telecommunications Bureau (via e-mail)

Appendix A

“iHeart Applicants” in Mutually Exclusive Groups in Auction 100 *

Capstar TX, LLC, as debtor in possession

CC Licenses, LLC, as debtor in possession

Citicasters Licenses, Inc., as debtor in possession

* As noted above, the iHeart Applicants are currently in debtor in possession status.

Appendix B

Attachment A to Auction 100 October 2018 Public Notice

Auction 100 – AM Revitalization/FM Translators
DA 18-1038
Attachment A

Construction Permit	Description	Channel	City	State	Applicant	File Number	Bidding Units	Upfront Payment	Minimum Opening Bid
FMT064	Eagle River/Anchorage, AK	287	Eagle River	AK	Christian Broadcasting, Inc.	20180125ABK	2,500	\$2,500	\$2,500
		287	Anchorage	AK	Capstar TX, LLC	20180130AEN			
FMT065	Mobile, AL	239	Mobile	AL	Buddy Tucker Association, Inc.	20180125AAG	5,000	\$5,000	\$5,000
		239	Mobile	AL	CC Licenses, LLC	20180130AEV			
FMT066	El Cajon/San Diego, CA	261	El Cajon	CA	Family Stations, Inc.	20180129AIL	35,000	\$35,000	\$35,000
		261	San Diego	CA	El Sembrador Ministries	20180131AEP			
FMT067	Naugatuck/Torrington, CT	283	Naugatuck	CT	Candido Dias Carrelo	20180130ABV	20,000	\$20,000	\$20,000
		283	Torrington	CT	Red Wolf Broadcasting Corporation	20180131ABU			
FMT068	Hialeah/Homestead, FL	241	Hialeah	FL	Pax Catholic Communications, Inc.	20180125AFZ	10,000	\$10,000	\$10,000
		241	Homestead	FL	ERJ Media LLC	20180131AIF			
FMT069	Cedar Falls/Waterloo, IA	268	Cedar Falls	IA	Coloff Media, LLC	20180125ADJ	10,000	\$10,000	\$10,000
		268	Waterloo	IA	NRG License Sub, LLC	20180131AEW			
FMT070	Louisville, KY	228	Louisville	KY	CC Licenses, LLC	20180130AFU	35,000	\$35,000	\$35,000
		228	Louisville	KY	Caron Broadcasting, Inc.	20180131AEK			
FMT071	Petoskey, MI	277	Petoskey	MI	Macdonald Garber Broadcasting, Inc.	20180125AGA	5,000	\$5,000	\$5,000
		277	Petoskey	MI	Suzanne Henderson	20180125AGS			
FMT072	Jackson, MS	240	Jackson	MS	Capstar TX, LLC	20180130AED	10,000	\$10,000	\$10,000
		240	Jackson	MS	Family Talk Radio	20180130AHB			
FMT073	Manhasset/Hempstead, NY	256	Manhasset	NY	Immaculate Heart Media, Inc.	20180130AIV	10,000	\$10,000	\$10,000
		256	Hempstead	NY	Universal Stations LLC	20180131AEN			
FMT074	Columbus, OH	248	Columbus	OH	Radiohio Incorporated	20180125AFV	35,000	\$35,000	\$35,000
		248	Columbus	OH	Citcasters Licenses, Inc.	20180130AGK			
FMT075	Newport News/Chesapeake, VA	265	Newport News	VA	MHR License LLC	20180130ADI	20,000	\$20,000	\$20,000
		265	Chesapeake	VA	Chesapeake-Portsmouth Broadcasting Corpora	20180131AGW			
FMT076	Burbank/Pasco/Kennewick, WA	254	Burbank	WA	Centro Familiar Cristiano	20180125AAW	5,000	\$5,000	\$5,000
		254	Pasco	WA	Townsquare Media Tri-Cities License, LLC	20180129ACZ			
		254	Kennewick	WA	CCR-Tri Cities IV, LLC	20180129AHX			

Appendix C

Organizational Chart filed with the
February 2, 2018 Biennial Ownership Reports for the iHeart Applicants

Ownership Structure

